

Misbranding was alleged in that the statement "Net Contents ½ Gallon" was false and misleading and tended to deceive and mislead purchasers; and in that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On October 17, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution.

M. L. WILSON, *Acting Secretary of Agriculture.*

29666. Adulteration of butter. U. S. v. 33 Tubs of Butter. Consent decree of condemnation. Product released under bond to be reworked. (F. & D. No. 44241. Sample Nos. 19533-D, 27046-D.)

This product contained less than 80 percent of milk fat.

On October 17, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 33 tubs of butter at New York, N. Y.; alleging that the article had been shipped in interstate commerce on or about October 6, 1938, by Kelliher Creamery Co. from Kelliher, Minn.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as provided by act of March 4, 1923.

On October 25, 1938, the Kelliher Creamery Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be reworked so that it contain not less than 80 percent of milk fat.

M. L. WILSON, *Acting Secretary of Agriculture.*

29667. Adulteration and misbranding of cheese. U. S. v. 100 Cases of Cheddar Cheese. Decree of condemnation. Product released under bond for reprocessing. (F. & D. No. 43677. Sample No. 19174-D.)

This product was deficient in fat.

On September 2, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 100 cases of cheese at Los Angeles, Calif.; alleging that the article had been shipped in interstate commerce on or about July 30 and August 6, 1938, by the Brooklawn Creamery Co. from Panguitch, Utah; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Whole Milk Cheddar Cheese."

Adulteration was alleged in that a substance deficient in fat had been mixed and packed with the article so as to reduce or lower its quality. Misbranding was alleged in that the statement "Whole Milk Cheddar Cheese" was false and misleading and tended to deceive and mislead the purchaser when applied to an article deficient in fat. It was alleged to be misbranded further in that it was offered for sale under the distinctive name of another article.

On October 20, 1938, the Brooklawn Creamery Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered, and it was ordered that the product be released under bond conditioned that it be reprocessed under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

29668. Misbranding of butter. U. S. v. Estal Draut (Rising Sun Creamery Co.). Plea of guilty. Fine, \$25. (F. & D. No. 42566. Sample Nos. 1911-D, 4207-D.)

This product was short weight.

On September 23, 1938, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Estal Draut, trading as the Rising Sun Creamery Co., Rising Sun, Ind., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about May 6 and May 13, 1938, from the State of Indiana into the State of Ohio of quantities of butter which was misbranded. The article was labeled in part: (Carton) "Red Ribbon Creamery Butter * * * The Churn Gold Corporation, Cincinnati, Ohio,

Wholesale Distributors"; (wrapper on cube) "Wholesale Distributors The Andrew Rohan Co., Cincinnati, Ohio."

Misbranding was alleged in that the statements "One Pound Net," borne on the carton, and "4 ounces net," borne on the wrapper, were false and misleading and tended to deceive and mislead the purchasers since the carton and wrapper did not contain 1 pound net and 4 ounces net, respectively, of the article, but did contain less amounts.

Misbranding was alleged in that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the statement made was not correct.

On October 17, 1938, the defendant entered a plea of guilty and the court imposed a fine of \$25.

M. L. WILSON, *Acting Secretary of Agriculture.*

29669. Adulteration and misbranding of vanilla extract. U. S. v. 141 Bottles and 237 Bottles of Vanilla Extract (and 2 other seizure actions against the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 42971 to 42974, incl. Sample Nos. 3841-D, 3842-D, 5625-D, 5710-D.)

This product was represented to be pure vanilla extract; but examination showed that it was an imitation vanilla extract containing added vanillin and artificial color, and little or no true vanilla. One lot failed to bear on the label a statement of the quantity of contents.

On June 25, 27, and 29, 1938, the United States attorneys for the Northern and Western Districts of Texas, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 378 bottles of vanilla extract at Fort Worth, Tex., 236 bottles at San Antonio, Tex., and 286 bottles of the same product at Fort Bliss, Tex.; alleging that the article had been shipped in interstate commerce on or about April 5 and May 7, 1938, by the de Calais Laboratoire from New York, N. Y.; and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Perfection Brand Pure Vanilla Extract * * * R. C. Williams & Co., Inc., Distributors New York, N. Y."

Adulteration was alleged in that an artificially colored imitation vanilla extract containing added vanillin and little or no vanilla had been substituted in whole or in part for the article. Adulteration was alleged further in that the article had been mixed and colored in a manner whereby inferiority was concealed.

Misbranding was alleged in that the statement "Pure Vanilla Extract" was false and misleading and tended to deceive and mislead the purchaser when applied to an imitation vanilla extract and in that it was an imitation of and was offered for sale under the distinctive name of another article. Misbranding was alleged further with respect to a portion of the article in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On October 12 and November 4 and 22, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

29670. Misbranding of canned peas. U. S. v. 76 Cases of Peas. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. & D. No. 43740. Sample No. 26680-D.)

This product was substandard because the peas were not immature, and it was not labeled to indicate that it was substandard.

On September 8, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 76 cases of canned peas at New York, N. Y.; alleging that the article had been shipped in interstate commerce in part on or about October 13, 1937, and in part on or about June 17, 1938, by the H. J. McGrath Co. from Baltimore, Md.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "McGrath's Early June Peas."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the peas were not immature and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.